

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WATER QUALITY
GENERAL PERMIT – NCG 010000
TO DISCHARGE STORMWATER UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
For
CONSTRUCTION ACTIVITIES

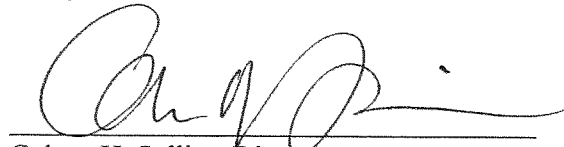
In compliance with the provision of North Carolina General Statute 143-215.1, other lawful standards and regulations promulgated and adopted by North Carolina Environmental Management Commission and the Federal Water Pollution Control Act as amended:

All owners or operators of stormwater point source discharges associated with construction activities including clearing, grading and excavation activities resulting in the disturbance of land are hereby authorized to discharge stormwater to the surface waters of North Carolina or to a separate storm sewer system conveying stormwater to the surface waters in accordance with the terms and conditions set forth herein.

Failure to receive coverage under this permit or violations of any of the conditions listed may result in assessment of civil penalties of up to \$25,000 per day per violation.

The General Permit shall become effective on January 1, 2010.
The General Permit shall expire at midnight on August 2, 2011.

Signed this day December 29, 2009



Coleen H. Sullins, Director
Division of Water Quality

By the Authority of the Environmental Management Commission

PERMITTED ACTIVITIES

Until this State of North Carolina General Permit expires or is modified or revoked, the permittee is authorized to discharge stormwater in accordance with the terms and conditions of this permit and in accordance with an approved Erosion and Sedimentation Control Plan by the North Carolina Division of Land Resources, Land Quality Section, or a delegated local program under the provisions and requirements of North Carolina General Statute 113A - 54.1 to the surface waters of North Carolina or to a separate storm sewer system. The permit, along with state statutes (N.C.G.S. 143-215.1) and rules (NCAC 2H .0100) relating to stormwater permitting are designed to work together to assure compliance with the NPDES requirements of the Clean Water Act. Furthermore, North Carolina rules in Title 15A NCAC 2H .0126 adopt by reference the federal stormwater permitting requirements.

Any other point source discharge to surface waters of the state is prohibited unless covered by another permit, authorization or approval. The discharges allowed by this General Permit shall not cause or contribute to violations of North Carolina Water Quality Standards for surface waters and wetlands (15A NCAC 2B .0200). Discharges allowed by this permit must meet all applicable water quality certification or permit requirements as outlined in 15A NCAC 2H .0500 and 2H .1300. This permit does not relieve the permittee from responsibility for compliance with any other applicable federal, state, or local law, rule, standard, ordinance, order, judgment, or decree.

General Permit Coverage

This General Permit is applicable to point source discharges from construction activities disturbing one or more acres of land. The submission of a proposed Erosion and Sedimentation Control Plan to the Division of Land Resources or delegated local program shall be considered to take the place of a Notice of Intent for coverage under this General Permit for those projects requiring this Permit coverage. Coverage under this General Permit shall become effective upon issuance of an approval for the Erosion and Sedimentation Control Plan by the Land Quality Section of the Division of Land Resources or delegated local program. Prior to the commencement of construction and land disturbing activities approval of the Erosion and Sedimentation Control Plan shall be obtained.

Any owner or operator not wishing to be covered or limited by this General Permit may make application for an individual NPDES permit in accordance with NPDES procedures in 15A NCAC 2H .0100, stating the reasons supporting the request. Any application for an individual permit should be made at least 180 days prior to the time the permit is needed.

This General Permit does not cover activities or discharges covered by an individual NPDES permit until the individual permit has expired or has been rescinded. Any person conducting an activity covered by an individual permit but which could be covered by this General Permit may request that the individual permit be rescinded and coverage under this General Permit be provided. Although the previous edition of this General Permit will expire with the acceptance of this updated version, activities permitted under the previous edition will be responsible for meeting those agreed-upon conditions until the individual project is completed or terminated.

PART I

MONITORING, CONTROLS, AND LIMITATIONS FOR PERMITTED DISCHARGES

SECTION A: FINAL LIMITATIONS AND CONTROLS FOR STORMWATER DISCHARGES

During the period beginning on the effective date of the permit and lasting until expiration, the Permittee is authorized to discharge stormwater associated with construction activity including clearing, grading and excavation activities resulting in the disturbance of land and related support activities. Such discharges shall be controlled, limited and monitored as specified below.

1. Erosion and Sedimentation Control Plan Approval: Prior to the commencement of land disturbing activity, the permittee shall submit for approval an Erosion and Sedimentation Control Plan (hereafter referred to as 'plan') to the Department of Environment, and Natural Resources, Division of Land Resources, Land Quality Section, or a delegated local program, pursuant to the requirements of NC G.S. 113A-54.1 and in conformity with rules adopted by the North Carolina Sedimentation Control Commission.
2. Implementation of the Plan:
 - a. The Permittee must implement the plan, which has been approved by the approval authority.
 - b. The approved plan is considered a requirement or condition of this general permit.
 - c. Deviation from the approved plan, or approved amendment to the plan, shall constitute a violation of the terms and conditions of this general permit except that deviation from the approved plan will be allowed:
 - i. to correct an emergency situation where sediments are being discharged off the site, or
 - ii. when minor modifications have been made for the purpose of improving the performance of the erosion and sedimentation control measures and notification of the minor modification has been made to the Division of Land Resources or approved local program.

Allowed deviations from the approved plan must be noted on the approved plan maintained at the job site.
 - d. Once land disturbance has begun onsite, a copy of the approved erosion and sediment control plan and this NPDES construction permit shall be maintained on the site.
3. Permittee must manage activities on the site such that no adverse impacts to water quality occur from site activities or allowed discharges. In addition to stream pollution from sediment discharge, other activities on construction and development sites can result in pollutants reaching the state's waters. The permittee must manage activities on the site such that no adverse impacts to water quality occur from any of these activities. EPA has prepared guidance documents that provide best management practices that address many activities:

(See http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm?action=min_measure&min_measure_id=4)

The following activities, and others on a site specific basis, require oversight throughout the construction and development process to assure that all water quality standards are protected:

- a. Equipment Operation and Maintenance: Equipment utilized during the construction activity on a site must be operated and maintained in such a manner as to prevent the potential or actual pollution of the surface or ground waters of the state. Fuels, lubricants, coolants, and hydraulic fluids, or any other petroleum products, shall not be discharged onto the ground or into surface waters. Spent fluids shall be disposed of in a manner so as not to enter the waters, surface or ground, of the state and in accordance with applicable state and federal disposal regulations. Any spilled fluids shall be cleaned up to the extent practicable and disposed of in a manner so as not to allow their entry into the waters, surface or ground, of the state.

- b. Material Handling: Herbicide, pesticide, and fertilizer usage during the construction activity shall be consistent with the Federal Insecticide, Fungicide, and Rodenticide Act and shall be in accordance with label restrictions.
 - c. Building Material Waste Handling: All wastes composed of building materials shall be disposed of in accordance with North Carolina General Statutes, Chapter 130A, Article 9 - Solid Waste Management, and rules governing the disposal of solid waste (North Carolina Administrative Code Section 15A NCAC 13B).
 - d. Litter and Sanitary Waste: The permittee shall control the management and disposal of litter and sanitary waste from the site.
 - e. Concrete Handling: Concrete materials onsite, including excess concrete, must be controlled and managed to avoid contact with surface waters, wetlands or buffers. (note that discharges from onsite concrete plants may require coverage under a separate NPDES permit – NCG140000)
- 4 The permittee must select, install, implement and maintain best management practices (BMPs) and control measures that minimize pollutants in the discharge to meet the requirements of this permit.
- 5 If there is evidence indicating that the stormwater discharges from the site are impacting or have the potential to impact surface waters or wetlands, the Division of Water Quality may take appropriate actions including any or all of the following:
- a. take compliance and enforcement action,
 - b. require the permittee to include and implement appropriate control and restoration measures,
 - c. require the permittee to develop and implement a site specific stormwater pollution prevention plan,
 - d. require the permittee to obtain an individual permit.
- 6 Disturbed areas in watersheds where available information indicates that federally-listed threatened or endangered aquatic species are present shall be limited at any time to a maximum total area within the boundaries of the tract of 20 acres. These project shall also use control measures that are designed, installed and maintained in accordance with criteria set forth in 15A NCAC 04B .0124 – Design Standards in Sensitive Watersheds. The permittee may propose alternative protection measures and seek coverage under an individual Construction NPDES Stormwater permit.

SECTION B: MINIMUM MONITORING AND REPORTING REQUIREMENTS

Minimum monitoring and reporting requirements are as follows unless otherwise approved in writing by the Director of the Division of Water Quality.

- 1. A rain gauge shall be maintained in good working order on the site.
- 2. A written record of the daily rainfall amounts shall be retained and all records shall be made available to DWQ or authorized agent upon request (note: if no rainfall occurred, the permittee must record “zero”).
- 3. The control measures shall be inspected to ensure that they are operating correctly. Inspection records must be maintained for each inspection event and for each measure. Paragraph 6 of this Section outlines additional inspection record requirements. At a minimum inspection of measures must occur at the frequency indicated below.

- a. All erosion and sedimentation control measures must be inspected by or under the direction of the permittee at least once every seven calendar days, and
- b. All erosion and sediment control measures must be inspected by or under the direction of the permittee within 24 hours after any storm event of greater than 0.50 inches of rain per 24 hour period

- 4. Once land disturbance has begun on the site, stormwater runoff discharge outfalls shall be inspected by observation for erosion, sedimentation and other stormwater discharge characteristics such as clarity, floating solids, and oil sheens. Inspections of the outfalls shall be made at least once every seven

calendar days and within 24 hours after any storm event of greater than 0.50 inches of rain per 24 hour period.

Inspection records must be maintained for each inspection event and for each discharge location.

5. If any visible sedimentation is leaving the site or entering waters of the state, corrective on-site action shall be taken immediately to control the discharge of sediments. Where visible deposition of sediment has occurred in surface waters or wetlands, the permittee must contact the Division within 24 hours of becoming aware of the deposition. (See Section I of this permit for contact information.)
6. The permittee must keep a record of inspections and all records shall be made available to DWQ or authorized agent upon request. The records must provide the details of each inspection including observations, and actions taken in accordance with this permit. The permittee shall record the required rainfall and monitoring observations on the "Inspection Record for Activities Under Stormwater General Permit NCG010000" form provided by the Division or a similar inspection form that is inclusive of all of the elements contained in the Division's form. (See attached "Inspection Record" form.)

Inspection records must include, at a minimum, the following:

- a) Control Measure Inspections: Inspection records must include at a minimum: 1) identification of the measures inspected, 2) date and time of the inspection, 3) name of the person performing the inspection, 4) indication of whether the measures were operating properly, 5) description of maintenance needs for the measure, 6) corrective actions taken and (7) date of actions taken.
 - b) Stormwater Discharge Inspections: Inspection records must include at a minimum: 1) identification of the discharge outfall inspected, 2) date and time of the inspection, 3) name of the person performing the inspection, 4) evidence of indicators of stormwater pollution such as oil sheen, floating or suspended solids or discoloration, 5) indication of visible sediment leaving the site, 6) actions taken to correct/prevent sedimentation and 7) date of actions taken.
 - c) Visible Sedimentation Found Outside the Site Limits: Inspection records must include 1) an explanation as to the actions taken to control future releases, 2) actions taken to clean up or stabilize the sediment that has left the site limits and 3) the date of actions taken.
 - d) Visible Sedimentation Found in Streams or Wetlands: All inspections should include evaluation of streams or wetlands onsite or offsite (where accessible) to determine if visible sedimentation has occurred.
 - e) Visible Stream Turbidity: If the discharge from a site results in visible stream turbidity, inspection records must record that evidence and actions taken to reduce sediment contributions.
7. Sites discharging to streams named on the state's 303(d) list as impaired for sediment-related causes may be required to perform additional monitoring, inspections or application of more-stringent management practices if it is determined that the additional requirements are needed to assure compliance with the federal or state impaired-waters conditions. If a discharge covered by this permit enters a stream segment that is listed on the Impaired Stream List for sediment-related causes, and a Total Maximum Daily Load (TMDL) has been prepared for those pollutants, the permittee must implement measures to ensure that the discharge of pollutants from the site is consistent with the assumptions and meets the requirements of the approved TMDL. The DWQ 303(d) list can be found at: http://h2o.enr.state.nc.us/tmdl/General_303d.htm/

SECTION C: SCHEDULE OF COMPLIANCE

1. The permittee shall comply with Final Limitations and Controls specified for stormwater discharges once disturbance has begun on the site and until completion of construction or development and the establishment of a permanent ground cover. Documentation from the Division of Land Resources or a locally-delegated program can be used to signify the completion of the project.

2. During construction and until the completion of construction or development and the establishment of permanent ground cover, the permittee shall provide the operation and maintenance necessary to operate the storm water control measures and all erosion and sedimentation control measures at optimum efficiency. (note: Completion of construction may be signified by the Division of Land Resources or approved local program closing the site or certifying that the site is complete).
3. If inspections required by the Minimum Monitoring and Reporting Requirements in Section B identify a need for maintenance of control measures, modifications or additions to control measures, or corrective actions to control sediment or other pollutants these actions must be performed as soon as possible and before the next storm event to maintain the effectiveness of the control measures.

PART II STANDARD CONDITIONS

SECTION A: DEFINITIONS

1. Act or "the Act" or CWA - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, et. seq.
2. Best Management Practices (BMPs) - Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operation procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
3. Control Measures - Refers to any BMP or other structural or non-structural practices and procedures used to prevent or reduce the discharge of pollutants including practices to control erosion and sedimentation.
4. DWQ or Division - The Division of Water Quality, Department of Environment, and Natural Resources.
5. Director - The Director of the Division of Water Quality, the permit issuing authority.
6. EMC - The North Carolina Environmental Management Commission.
7. Permittee - The person, firm or organizational entity that signed as the financially responsible party on the Erosion and Sedimentation Control Plan.
8. Point Source Discharge - Any discernible, confined and discrete conveyance, including but specifically not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or concentrated animal feeding operation from which pollutants are or may be discharged to waters of the state.
9. Administrator - The Administrator of the U. S. Environmental Protection Agency.
10. Stormwater Pollution Prevention Plan - A document which describes the best management practices and control measures and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters. Where sites exist that involve multiple or complex sources of pollution or sensitive environmental conditions that may not be addressed in the standard sediment and erosion control plan, the Division may require that an individual Stormwater Pollution Prevention Plan be prepared for that site. This plan would include all standard and additional control measures necessary to assure that water quality is protected.
11. Erosion and Sediment Control Plan - A plan developed in compliance with the North Carolina Sediment Pollution Control Act of 1973 to prevent the erosion and deposition of sediment and other materials into the waters of the State from construction or other land-disturbing activities that disturb

one or more acres of land. Each plan must be approved by the NC Sedimentation Control Commission or a program delegated by the Commission to a local government.

SECTION B: GENERAL CONDITIONS

I. Duty to Comply.

The permittee must comply with all conditions of this general permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for: enforcement action; certificate of coverage termination, revocation and reissuance, or modification; or denial of a certificate of coverage upon renewal application.

- (a) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
- (b) The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$27,000 per day for each violation. The Clean Water Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.
- (c) Under state law, a daily civil penalty of not more than ten thousand dollars (\$10,000) per violation may be assessed against any person who violates or fails to act in accordance with the terms, conditions, or requirements of a permit. [Ref: NC General Statute 143-215.6A].
- (d) Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$11,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$27,500. Penalties for Class II violations are not to exceed \$11,000

per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$137,500.

2. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this general permit that has a reasonable likelihood of adversely affecting human health or the environment.

3. Civil and Criminal Liability

Except as provided in Section C. of this permit regarding bypassing of stormwater control facilities, nothing in this general permit shall be construed to relieve the permittee from any responsibilities, liabilities, or penalties for noncompliance pursuant to NCGS 143-215.3, 143-215.6A, 143-215.6B, 143-215.6C or Section 309 of the Federal Act, 33 USC 1319. Furthermore, the permittee is responsible for consequential damages, such as fish kills, even though the responsibility for effective compliance may be temporarily suspended.

4. Oil and Hazardous Substance Liability

Nothing in this general permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under NCGS 143-215.75 et seq. or Section 311 of the Federal Act, 33 USC 1321. Furthermore, the permittee is responsible for consequential damages, such as fish kills, even though the responsibility for effective compliance may be temporarily suspended.

5. Property Rights

The issuance of this general permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

6. Severability

The provisions of this general permit are severable, and if any provision of this general permit, or the application of any provision of this general permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this general permit, shall not be affected thereby.

7. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the certificate of coverage issued pursuant to this general permit or to determine compliance with this general permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this general permit.

8. When an Individual Permit may be Required

The Director may require any owner/operator authorized to discharge under a certificate of coverage issued pursuant to this general permit to apply for and obtain an individual permit or an alternative general permit. Any interested person may petition the Director to require an individual permit pursuant to 15A NCAC 2H .0127. Cases where an individual permit may be required include, but are not limited to, the following:

- a. The discharger is a significant contributor of pollutants;
- b. Conditions at the permitted site change, altering the constituents and/or characteristics of the discharge such that the discharge no longer qualifies for a General Permit;
- c. The discharge violates the terms or conditions of this general permit;

- d. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
 - e. Effluent limitations are promulgated for the point sources covered by this general permit;
 - f. A water quality management plan containing requirements applicable to such point sources is approved after the issuance of this general permit.
 - g. The Director determines at his own discretion that an individual permit is required.
9. When an Individual Permit may be Requested
Any permittee operating under this general permit may request to be excluded from the coverage of this general permit by applying for an individual permit. When an individual permit is issued to an owner/operator the applicability of this general permit is automatically terminated on the effective date of the individual permit.
10. Signatory Requirements
- a. All applications, reports, or information submitted to the Director shall be signed and certified as follows:
 - (1) For a corporation: by a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means: (a) a president, secretary, treasurer or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or (b) the manager of one or more manufacturing production or operating facilities provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
 - (3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.
 - b. All reports required by the general permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - (1) The authorization is made in writing by a person described above;
 - (2) The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or well field, superintendent, a position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and
 - (3) The written authorization is submitted to the Director.
 - c. Any person signing a document under paragraphs a. or b. of this section shall make the following certification:

“I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

11. General Permit Modification, Revocation and Reissuance, or Termination
The issuance of this general permit does not prohibit the Director from reopening and modifying the general permit, revoking and reissuing the general permit, or terminating the general permit as allowed by the laws, rules, and regulations contained in Title 40, Code of Federal Regulations, Parts 122 and 123; Title 15A of the North Carolina Administrative Code, Subchapter 2H .0100; and North Carolina General Statute 143-215.1 et. seq.
12. Continuation of Previously Permitted Projects
Projects and their corresponding activities permitted under the previous version of the NC general permit for construction activities are covered under this general permit. The requirements for these projects are the same as those previously required in the general permit until the project is completed or terminated.

SECTION C: OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance
The permittee shall at all times properly operate and maintain all control measures and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this general permit.
2. Need to Halt or Reduce not a Defense
It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the condition of this general permit.
3. Bypassing of Stormwater Control Facilities
 - a. Definitions
 - (1) "Bypass" means the intentional diversion of stormwater from any portion of a stormwater control facility including the collection system, which is not a designed or established or operating mode for the facility.
 - (2) "Severe property damage" means substantial physical damage to property, damage to the control measures that cause them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 - b. Bypass Not Exceeding Limitations.
The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Paragraphs c. and d. of this section.
 - c. Notice
 - (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass; including an evaluation of the anticipated quality and effect of the bypass.
 - (2) Unanticipated bypass. The permittee shall submit notice within 24 hours of an unanticipated bypass as required in Part II, E. 3.(b)(1) of this general permit. (24-hour notice).
 - d. Prohibition of Bypass
Bypass is prohibited and the Director may take enforcement action against a permittee for bypass, unless:

- (1) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary control facilities, retention of stormwater or maintenance during normal periods of equipment downtime or dry weather. This condition is not satisfied if adequate backup controls should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The permittee submitted notices as required under Paragraph c. of this section.
- The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Paragraph d. of this section.

4. Upsets

- a. Definition - "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment or control facilities, inadequate treatment or control facilities, lack of preventive maintenance, or careless or improper operation.
- b. Effect of an Upset.
An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph c. of this condition are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- c. Conditions Necessary for a Demonstration of Upset
A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (2) The permitted facility was at the time being properly operated; and
 - (3) The permittee submitted notice of the upset as required in Part II, E.3.(b)(2) of this general permit.
 - (4) The permittee complied with any remedial measures required under Part II, A.2. of this general permit.
- d. Burden of Proof
In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

SECTION D: MONITORING AND RECORDS

1. Representative Sampling

Samples collected and measurements taken, as required herein, shall be characteristic of the volume and nature of the permitted discharge. Samples shall be taken on a day and time that is characteristic of the discharge.

2. Penalties for Tampering

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this general permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

3. Records Retention

The permittee shall retain records of all monitoring information and copies of all reports required by this general permit for a period of at least one year from the date of the final inspection by the Division

of Land Resources, or the designated permitting agency, determining that the site is in compliance and has been stabilized with permanent ground cover. This period may be extended by request of the Director at any time.

4. Recording Results

For each measurement, sample, inspection or maintenance activity performed or taken pursuant to the requirements of this general permit, the permittee shall record the following information:

- a. The date, exact place, and time of sampling, measurements, inspection or maintenance activity;
- b. The individual(s) who performed the sampling, measurements, inspection or maintenance activity;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

5. Inspection and Entry

The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Director), or in the case of a facility which discharges through a municipal separate storm sewer system, an authorized representative of a municipal operator or the separate storm sewer system receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to;

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this general permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this general permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this general permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring general permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

SECTION E: REPORTING REQUIREMENTS

1. Planned Changes

The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR Part 122.29 (b); or
- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the general permit, nor to notification requirements under 40 CFR Part 122.42 (a) (I).

2. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity that may result in noncompliance with the general permit requirements.

3. Twenty-four Hour Reporting

- a. The permittee shall report to the central office or the appropriate regional office any discharge of stormwater that has resulted in visible sediment being deposited in any stream or wetland or

- any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. (See Section I for contact information.)
- b. The written submission shall contain a description of the sediment deposition or the noncompliance, and its causes; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - c. The Director may waive the written report on a case-by-case basis for reports under paragraph b. above of this condition if the oral report has been received within 24 hours.
4. Other Information
Where the permittee becomes aware that it failed to submit any relevant facts in any report to the Director, it shall promptly submit such facts or information.
5. Availability of Reports
Except for data determined to be confidential under NCGS 143-215.3(a)(2) or Section 308 of the Federal Act, 33 USC 1318, all reports prepared in accordance with the terms shall be available for public inspection at the offices of the Division of Water Quality. As required by the Act, discharge data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in NCGS 143-215.6B or in Section 309 of the Federal Act.
6. Penalties for Falsification of Reports
The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this general permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both.

SECTION F: LIMITATIONS REOPENER

This general permit shall be modified or alternatively, revoked and reissued, to comply with any applicable effluent guideline or water quality standard issued or approved under Sections 302(b) (2) (c), and (d), 304(b) (2) and 307(a) of the Clean Water Act, if the effluent guideline or water quality standard so issued or approved:

- a. contains different conditions or is otherwise more stringent than any effluent limitation in the general permit; or
- b. controls any pollutant not limited in the general permit.

The general permit as modified or reissued under this paragraph shall also contain any other requirements in the Act then applicable.

SECTION G: EROSION AND SEDIMENTATION CONTROL PLAN

The Clean Water Act requirements mandate that stormwater runoff from various industrial activities are regulated by the EPA's designated state NPDES agency. The Division of Water Quality has been delegated responsibility for implementing this program in North Carolina. One area covered is construction site stormwater runoff for project disturbing one or more acres of land. North Carolina has had a statewide sediment control program since 1974. This program is implemented by the Division of Land Resources. The Division of Water Quality partners with the Division of Land

Resources to implement a complete program for construction site coverage that includes state sedimentation control and NPDES stormwater control. The Division of Land Resources implements their control programs through an Erosion and Sedimentation Control Plan (the Plan) issued for each construction site in the state disturbing one or more acres of land. A plan is required for each site by the Division of Land Resources or a delegated local government program. The NPDES Construction Stormwater permit (NCG010000) is attached to erosion and sedimentation control plan approvals. The permittee is responsible for abiding by the conditions of both of these documents.

The Erosion and Sedimentation Control Plan serves as a blueprint for the location, installation, and maintenance of practices to controls erosion and sedimentation. Erosion and Sedimentation Control Plans are designed to meet the following basic objectives:

- 1) limit exposed areas,
- 2) limit time of exposure,
- 3) limit runoff originating upgrade,
- 4) identify critical areas that need additional protection
- 5) control sedimentation to prevent off-site sedimentation, and
- 6) manage stormwater runoff to prevent accelerated erosion of the receiving watercourse.

The Sedimentation Pollution Control Act of 1973 places a duty upon the Sedimentation Control Commission to "develop recommended methods of control of sedimentation and prepare and make available for distribution publications and other materials dealing with sedimentation control techniques appropriate for use by persons engaged in land-disturbing activities." The Sedimentation Control Commission and the Division of Land Resources have adopted the North Carolina Erosion and Sediment Control Planning and Design Manual as the document to provide that guidance for use at all constructions sites in the state. The individual Erosion and Sedimentation Control Plans are developed based on this guidance and become a condition of the Division of Water Quality's Construction Stormwater General Permit. As provided in this permit, "Deviation from the approved plan, or approved amendment to the plan, shall constitute a violation of the terms and conditions of this general permit."

Please note that this construction NPDES Stormwater permit contains controls and requirements similar to the erosion and sediment control plan, but also contains additional requirements. The permittee is responsible for all requirements.

SECTION H: NUMERIC EFFLUENT LIMITATIONS:

This General Permit does not include requirements for numeric limits for discharges from construction sites. However, as specified in the Effluent Limitations Guidelines (ELG) published in the December 1, 2009, Federal Register, any general permit for construction issued after the February 2, 2010 implementation date must include the numeric effluent limitations provided in those Guidelines. Those Guidelines require effluent limits of 280 NTUs for construction sites with 20 or more acres by August 2, 2011 and for sites with 10 or more acres by February 2, 2014. (Those guidelines also require immediate application of soil stabilization measures where activity on a site is not resumed for a period exceeding 14 days.) When this permit expires on August 2, 2011, the new construction general permit developed must contain these effluent limitations as established in the EPA ELG.

SECTION I: NC DIVISION OF WATER QUALITY CONTACTS

Asheville Regional Office

2090 U.S. Highway 70
Swannanoa, NC 28778
828/296-4500
FAX 828/299-7043

Fayetteville Regional Office

Systel Building,
225 Green St., Suite 714
Fayetteville, NC 28301-5094
910/433-3300
FAX 910/486-0707

Mooresville Regional Office

610 East Center Ave.
Mooresville, NC 28115
704/663-1699
FAX 704/663-6040

Raleigh Regional Office

Mail to:
1628 Mail Service Center
Raleigh, NC 27699-1628
Location:
3800 Barrett Drive
Raleigh, NC 27609
919/791-4200
FAX 919/571-4718

Washington Regional Office

943 Washington Square Mall
Washington, NC 27889
252/946-6481
FAX 252/975-3716

Wilmington Regional Office

127 Cardinal Drive Extension
Wilmington, NC 28405
910/796-7215
FAX 910/350-2004

Winston-Salem Regional Office

585 Waughtown Street
Winston-Salem, NC 27107
336/771-5000
FAX 336/771-4630
(Water Quality)

ATTACHMENT: "INSPECTION RECORD" FORM

(12-29-09)

RAINFALL: A rain gauge shall be maintained onsite and a record of the daily rainfall amounts shall be kept.

Day or Date:					
Rainfall Amount (inches):					
Initials:					

ASSESSMENT OF CONTROL MEASURES: All control measures must be inspected at least once per seven calendar days and within 24 hours after any storm event of greater than 0.5 inches of rain per 24 hour period.

[illegible]

STORMWATER DISCHARGE OUTFALLS: All stormwater discharge outfalls must be inspected at least once per seven calendar days and within 24 hours after any storm event of greater than 0.5 inches of rain per 24 hour period.

Stormwater Discharge Outfall Identification	Date of Inspection	Initials of Inspector	Is Erosion Seen Near Outfall? (Y/N)	Describe evidence of other pollutants discharging from the site such as oil sheen, discoloration, cement wastes, sanitary waste, fertilizers, or fuel or material storage leakage.

VISIBLE SEDIMENTATION AND/OR STREAM TURBIDITY: Record corrective actions taken under "ASSESSMENT OF CONTROL MEASURES" above.

- Is there any visible sediment deposited in a stream, wetland or buffer? Yes ___ No ___ Date(s) ___ DW/Q contacted? ___
 - Is there any visible sediment deposited on adjacent property(ies)? Yes ___ No ___ Date (s) ___
 - Is there any visible decrease in stream clarity (increased turbidity-cloudy) because of a discharge? Yes ___ No ___ Date(s) ___
- Has all land disturbing activity been completed? (Y/N) ___ Has the final permanent ground cover been completed & established? (Y/N) ___

By this signature, I certify, in accordance with Part II Sec. B(10) of the NCGO10000 permit, that this report is accurate and complete to the best of my knowledge:

Signature of Permittee or Designee: _____

Date: _____